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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/659,172 | 09/10/2003 | Carl Hein | ATL-2 | 7483 |
| 28581 | 7590 | 12/13/2005 | EXAMINER | |
| DUANE MORRIS LLP PO BOX 5203 PRINCETON, NJ 08543-5203 | | | WIMER, MICHAEL C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2828 | |

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/659,172 | HEIN ET AL. | |
| | Examiner | Art Unit | |
| | Michael C. Wimer | 2828 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,5-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Gruenberg (3150320).

Regarding Claims 1,2,7 and 8, Gruenberg shows a communication method and apparatus for stealthy information communication, generally in Figure 1, comprising the steps of transmitting RF from a first location via transmitter 30, and positioned at a second location, a controllable passive reflector 20 of RF energy with modulator, for modulating the energy in response to information to be transmitted and reflected thereby, a receiver 36 at a third location 24, which coincides with the first location, all arranged as claimed. The receiver 36 is also considered remote from the transmitter in as much as it is shown as a separate self-contained antenna located aside the transmitting antenna 30, and particularly since there is no specific definition for remote or any distance, such as wavelength dimensions, recited in the claims.

Regarding Claims 5, 6 and 10, the step of receiving is performed with the aid of knowledge of the modulation and with the aid of mutual synchronization because the receiver employed (i.e., at station 24) must demodulate and correlate (via

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synthesizing and utilizing the digital code, as set forth by Gruenberg at col. 6, lines 37-41) the received signal, and between the modulator and receiver.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3,4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruenberg (3150320).

Regarding Claims 3,4 and 9, Gruenberg suggests in col. 9, lines 7-11, that the step of modulation and the modulator, modulates the phase of the signal.

Although a specific circuit for phase modulation is not specifically illustrated, Gruenberg acknowledges that the type or mode of modulation is well within the common knowledge of the skilled artisan, and thus the antenna artisan would have found it obvious to employ a phase-modulated passive reflector with the appropriate circuitry for phase modulation.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Wimer whose telephone number is (571) 272-1833. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minsun O. Harvey can be reached on (571) 272-1835. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael C. Wimer
Primary Examiner
Art Unit 2828

MCW
11/23/2005